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GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judicial Department

LD/2A/2/68

The following Act passed by Legislative Assembly of Goa, Daman and Diu received the Assent of the President of India on 22-2-69 is hereby published for general information.

The Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968

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The Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968

(Act No. 15 of 1968)

An Act to provide for the control of rents and evictions and of rates of hotels and lodging houses, and for the requisition of vacant buildings, in the Union territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Nineteenth Year of the Republic of India as follows:

CHAPTER I

Preliminary

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968.

(2) It extends, in the first instance, to the cities of Panaji, Margão, Mapsa and Vasco (including the harbour area) and to Daman (Nani and Moti) in the Union territory of Goa, Daman and Diu but the Administrator may, from time to time, by notification in the Official Gazette extend this Act or any provision thereof to any other area in the said Union territory.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and for different areas and any reference in any such provision to the commencement of this Act shall be construed

as a reference to the coming into force of that provision.

2. Definitions. — In this Act, unless the context otherwise requires,—

(a) "Administrative Tribunal" means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965;

(b) "Administrator" means the administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(c) "Appellate Board" means the Appellate Board constituted under sub-section (1) of section 41;

(d) "Authorised Officer" means an officer appointed as such under sub-section (2) of section 41;

(e) "building" means any building, or part of a building, which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose, and includes—

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of the building;

(ii) any furniture supplied by the landlord for use in such building or part of the building, but does not include a room in a hotel or lodging house;

(f) "Controller" means a person appointed as a controller under sub-section (2) of section 41 and, except in section 42, includes an Additional Controller;

(g) "fair rate" means the fair rate fixed under section 37 and includes the rate as revised under section 38;

(h) "fair rent" means the fair rent fixed under Chapter III;

(i) "hotel or lodging house" means a building, or part of a building, where lodging with or without board or other services is provided for monetary consideration;

(j) "landlord" means a person who, for the time being, is receiving, or is entitled to receive, the rent of any building, whether on his own account or on account of, or on behalf of, or for the benefit of, any other person or as a trustee, guardian or receiver for any other person or who would so receive the rent or be entitled to receive the rent, if the premises were let to a tenant;

(k) "manager of a hotel" includes any person in charge of the management of the hotel;

(l) "member of the family" means—

(i) in relation to a landlord who is an individual, his spouse, son, unmarried daughter and includes father, mother, grandson, widowed daughter, widowed grand-daughter solely dependent on the landlord for maintenance;

(ii) in relation to a landlord who is a joint Hindu family, the members of such a family;

(iii) in relation to joint owners other than a joint Hindu family, the members of the family as indicated in sub-clause (i) in relation to each of such joint owners;

(m) "owner of a lodging house" means a person who for the time being is receiving, or is entitled to receive, whether on his own account, or on account of, or on behalf of, or for the benefit of, himself or any other person or as an agent or guardian, receiver or a trustee for any other person, any monetary consideration from any person on account of board, lodging or other services provided in the lodging house;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "Rent Tribunal" means the Rent Tribunal constituted under sub-section (1) of section 41;

(p) "tenant" means any person by whom or on whose account or behalf the rent of any building is, or but for a special contract would be, payable and includes a sub-tenant and also any person continuing in possession after the termination of his tenancy, but shall not include any person against whom any order or decree for eviction has been made.

3. Act not to apply to certain buildings.—(1) Nothing in this Act shall apply—

(a) to any building belonging to the Government, or a State Housing Board, or a local authority, or Industrial Development Corporation;

(b) to any building vested in the Custodian of Evacuee Property;

(c) to any newly constructed building for a period of four years from the date of its completion;

(d) as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of a building, the possession of which has been taken over under section 6.

(2) Where the Administrator is of the opinion that it is necessary or expedient in the public interest so to do, he may, by notification in the Official Gazette, and subject to such conditions, if any, as he may specify in the notification, exempt any building or class of buildings from all or any of the provisions of this Act.

CHAPTER II

Control of letting

4. Notice of vacancy.—(1) Every landlord shall, within ten days after a building becomes vacant by his ceasing to occupy it or by termination of a tenancy, or by eviction of a tenant, or otherwise, give notice of the vacancy to the Authorised Officer.

(2) Every such notice shall be given in such manner, and shall contain such particulars, as may be prescribed.

5. Release of building for use of the landlord.—(1) The Authorised Officer may, on receipt of an application from the landlord, or on receipt of a direction from the Administrator in pursuance of an application made to him by the landlord, by order, release a building for the occupation of the landlord or a member of his family.

(2) A landlord who has obtained possession of a building in pursuance of an order made under sub-section (1) shall use it only for his own occupation or for the occupation of any member of his family, and if he fails to do so but proposes either to let out or keep vacant the whole or any part of the building

for a period exceeding that permitted by the Authorised Officer by order in writing, he shall give notice as required under section 4 as if the building had fallen vacant.

6. Requisitioning of building.—(1) Within fifteen days of receipt, by the Authorised Officer, of the notice under sub-section (1) of section 4, or sub-section (2) of section 5, the Authorised Officer, may, if he is of the opinion that the building is required for the purpose of the Government or of any local authority or of any public institution under the control of the Government or for the occupation of any officer or employee of the Government or a local authority, issue an order in the prescribed form giving intimation to that effect to the landlord, and calling upon the landlord to hand over possession of the building to him or any other officer empowered by him for this purpose on a date to be specified by him in this behalf in the said order, or on any other later date, as may be specified by him.

(2) (a) On receipt of the order issued under sub-section (1), the landlord shall deliver vacant possession of the building to the Authorised Officer or any officer empowered by him for this purpose.

(b) If the landlord fails to deliver the possession on the date so specified, the Authorised Officer or any other officer empowered by him in this behalf may take possession of the building.

(3) As soon as may be after the possession of the building is taken over under sub-section (2), the Authorised Officer shall, after giving notice in this behalf to the landlord and hearing him and after holding such inquiry as he deems fit, determine the monthly rent payable to the landlord for the building on the following basis, namely:

(a) where the fair rent of the building is fixed under the provisions of Chapter III, the rent shall be the fair rent so fixed;

(b) in all other cases, the rent shall be the reasonable rent as the Authorised Officer may determine:

Provided that the reasonable rent fixed by the Authorised Officer shall be subject to such fair rent as may be determined by the Rent Tribunal.

(4) The landlord shall be entitled to payment of rent determined under sub-section (3),—

(a) where possession of the building has been handed over on the date specified in the order issued under sub-section (1), from the date on which the Authorised Officer received notice under sub-section (1) of section 4 or sub-section (2) of section 5, as the case may be;

(b) in any other case, from the date on which the possession of the building has been taken over by the Authorised Officer or the officer empowered by him in this behalf.

(5) The Authorised Officer may, by order in writing, allot the building for the purpose for which it was taken over and the allottee shall hold it subject to such terms and conditions as may be specified in the allotment order.

7. Landlord's right to occupy.—If, within fifteen days of the receipt by the Authorised Officer of a notice under sub-section (1) of section 4 or sub-section (2) of section 5, the Authorised Officer does

not intimate to the landlord in writing that the building is required for any of the purposes specified in sub-section (1) of section 6, the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

8. Restriction on structural alterations to a building. — Where the possession of a building has been taken over under section 6, no structural alteration shall be made in the building except with the consent in writing of the landlord.

9. Effect of failure to give notice and prohibition of letting. — Notwithstanding the fact that a landlord has failed to give intimation to the Authorised Officer as required by sub-section (1) of section 4, or sub-section (2) of section 5, the Administrator or the Authorised Officer may, if the building is required for any of the purposes specified in sub-section (1) of section 6 at any time, give intimation to the landlord that the building is so required and thereupon the provisions of this Chapter shall apply to such building as if the requisite notice had been given:

Provided that such intimation shall not affect any liability of the landlord for any penalty to which he may be subject by reason of his omission to give the notice.

10. Occupation without giving notice of vacancy void. — Where a landlord fails to give intimation to the Authorised Officer as required by sub-section (1) of section 4 or sub-section (2) of section 5 and occupies the building himself or lets it out to a tenant or otherwise allows it to be occupied by some other person, the said occupation of the building by the landlord or the tenant or other person shall be deemed to be void.

11. Exemption of certain classes of buildings from Chapter II. — Nothing in this Chapter shall apply —

- (a) to a residential building the monthly rent of which does not exceed twenty-five rupees;
- (b) to a non-residential building the monthly rent of which does not exceed fifty rupees;
- (c) to any building or buildings in the same city, town or village owned by any company, association or firm, whether incorporated or not, and *bonafide* intended solely for the occupation of its officers, servants or agents.

CHAPTER III

Determination of fair rent

12. Rent Tribunal to determine fair rent. — (1) The Rent Tribunal shall, on application by the landlord or the tenant of a building, fix the fair rent payable per annum for such building after holding such inquiry as may be prescribed.

(2) The fair rent payable per annum shall consist of —

(a) seven and a half per cent. of the market value of the building (including the land on which the building is constructed) as on the 1st day of January, 1965, or the date of the completion of the building, whichever is later; and

(b) fifty per cent. of the taxes or cesses levied by the local authority and payable per annum by

the landlord in respect of the building including the land on which the building is constructed:

Provided that where the building has been let out for the first time previous to the 1st day of January, 1965, the fair rent shall not exceed the rent payable in respect of such building on that date.

13. Increase in fair rent in what cases admissible.

(1) When the fair rent of a building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and, if the building is then in the occupation of a tenant, at his request:

Provided that the increase shall be calculated at a rate per annum not exceeding seven and a half per cent. of the cost of such addition, improvement or alteration.

(2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Rent Tribunal.

(3) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed.

(4) Any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Rent Tribunal.

14. Increase of rent in certain cases. — (1) Where the amount of taxes and cesses payable by the landlord in respect of a building to a local authority is enhanced or is levied for the first time after the fixation of the fair rent under section 12, the landlord shall be entitled to claim half of such excess or levy from the tenant in addition to the fair rent fixed:

Provided that such excess shall not be recoverable in so far as it has resulted from an increase of rent in respect of the building.

(2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Rent Tribunal.

15. Landlord not to claim or receive anything in excess of fair rent. — (1) Where the Rent Tribunal has fixed fair rent of a building, the landlord shall not claim, receive or stipulate for the payment of —

(a) any extra sum in addition to such fair rent; or

(b) save as provided in section 13 or section 14, anything in excess of such fair rent:

Provided that the landlord may claim, receive or stipulate for the payment of an amount not exceeding one month's rent, by way of advance.

(2) Save as provided in sub-section (1), any extra sum or any rent paid in addition to, or in excess of, such fair rent, whether before or after the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building, shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord:

Provided that where before the determination of the fair rent, rent has been paid in excess thereof,

the refund or adjustment shall be limited to the amount paid in excess for a period of six months prior to the date of the application by the tenant or the landlord under sub-section (1) of section 12 for fixing the fair rent.

(3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be void.

16. Prohibition of receipt of premium.—(1) Where the fair rent of a building has not been so fixed, the landlord shall not, after the commencement of this Act, claim, receive or stipulate for the payment of an extra amount or other like sum in addition to the agreed rent:

Provided that the landlord may claim, receive or stipulate for the payment of an amount not exceeding one month's rent by way of advance.

(2) Save as provided in sub-section (1), any sum paid in excess of the agreed rent after the commencement of this Act in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord.

(3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be void.

CHAPTER IV

Payment and deposit of rent

17. Receipt to be given for rent paid.—(1) Every tenant shall pay rent within the time fixed by contract or, in the absence of such contract, by the fifteenth day of the month next following the month for which it is payable.

(2) Every tenant who makes a payment of rent or advance to his landlord shall be entitled to obtain forthwith from the landlord or his authorised agent a written receipt for the amount paid to him, signed by the landlord or his authorised agent.

(3) If the landlord or his authorised agent refuses or neglects to deliver to the tenant a receipt referred to in sub-section (2), or does not accept any rent tendered by a tenant, the tenant shall remit the rent to the landlord by money order after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent and deliver a receipt as required by sub-section (2).

18. Deposit of rent by tenant.—(1) Where there is a *bonafide* doubt as to the person or persons to whom the rent is payable or where the address of the landlord or his authorised agent is not known to the tenant, he may deposit such rent with the Controller in the prescribed manner.

(2) The deposit shall be accompanied by an application by the tenant containing the following particulars, namely:

(a) the building for which the rent is deposited with a description sufficient for identifying the building;

(b) the period for which the rent is deposited;

(c) the name and address of the landlord or the person or persons claiming to be entitled to such rent;

(d) the reasons for and the circumstances in which the application for depositing the rent is made;

(e) such other particulars as may be prescribed.

(3) On such deposit of the rent being made, the Controller shall send in the prescribed manner a copy or copies of the application to the landlord or persons claiming to be entitled to the rent with an endorsement of the date of the deposit.

(4) If an application is made for the withdrawal of any deposit of rent, the Controller shall, if satisfied that the applicant is the person entitled to receive the rent deposited, order amount of the rent to be paid to him in the manner prescribed:

Provided that no order for payment of any deposit of rent shall be made by the Controller under this sub-section without giving all persons named by the tenant in his application under sub-section (2) as claiming to be entitled to payment of such rent an opportunity of being heard and such order shall be without prejudice to the right of such persons to receive such rent being decided by a court of competent jurisdiction.

(5) If at the time of filing the application under sub-section (4), but not after the expiry of thirty days from receiving the notice of the deposit, the landlord or the person claiming to be entitled to the rent complains to the Controller that the statements in the tenant's application of the reasons and the circumstances which led him to deposit the rent are untrue, the Controller, after giving the tenant an opportunity of being heard, may, if he is satisfied that the said statements were materially untrue, impose on the tenant a fine not exceeding an amount equal to two months' rent, and may further direct that such portion thereof as he considers fit should be paid to the landlord as compensation.

(6) The Controller, on the complaint of the tenant and after giving an opportunity to the landlord of being heard may, if he is satisfied that the landlord without any reasonable cause refused to accept rent though tendered to him within the time referred to in section 17, impose on the landlord a fine not exceeding an amount equal to two months' rent, and may further direct that such portion thereof as he considers fit should be paid to the tenant as compensation.

19. Time limit for making deposit and consequences of incorrect particulars in application for deposit.

(1) No rent deposited under section 18 shall be considered to have been validly deposited under that section, unless the deposit is made within twenty-one days of the time allowed by section 17 for payment of the rent.

(2) No such deposit shall be considered to have been validly made, if the tenant wilfully makes any false statement in his application for depositing the rent, unless the landlord has withdrawn the amount deposited before the date of filing an application for the recovery of possession of the building from the tenant.

(3) If the rent is deposited within the time mentioned in sub-section (1) and does not cease to be a valid deposit for the reason mentioned in sub-

-section (2), the deposit shall constitute payment of the rent to the landlord as if the amount deposited had been validly tendered.

(4) If the deposit is not considered to have been validly made, the person depositing may withdraw the deposit at any time when he wishes to withdraw by making an application in writing in this behalf to the Controller.

20. Saving as to acceptance of rent.—The withdrawal of rent deposited under section 18 in the manner provided therein shall not operate as an admission against the person withdrawing it of the correctness of the rate of rent, the period of default, the amount due, or of any other facts stated in the tenant's application for depositing the rent under the said section.

CHAPTER V

Control of eviction of tenants

21. Bar on eviction of tenants.—Notwithstanding anything to the contrary contained in any other law or contract, a tenant shall not be evicted, whether in execution of a decree or otherwise, except in accordance with the provisions of this Chapter:

Provided that where the tenant denies the title of the landlord or claims a right of permanent tenancy, the Controller shall decide whether the denial or claim is *bonafide* and if he records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a civil court and the court may pass a decree for eviction on any of the grounds mentioned in this Chapter even though the court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

22. Grounds of eviction.—(1) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf.

(2) If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied

(a) that the tenant is in arrears in payment of rent due by him in respect of the building for a total period of three months; or

(b) that the tenant has without the written consent of the landlord—

(i) transferred his right under the lease or sub-let the entire building or any portion thereof, or

(ii) used the building for a purpose other than that for which it was leased; or

(c) that the tenant has committed such acts of damage as are likely to impair materially the value or utility of the building; or

(d) that the tenant has been guilty of such acts and conducts which are a nuisance to the occupiers of other portions of the same building or of buildings in the neighbourhood;

Explanation:—For the purposes of Central Act this clause, "nuisance" shall be deemed 104 of 1956 to include any act which constitutes an offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956;

(e) that the tenant of a dwelling house has, whether before or after the commencement of this Act,

built, acquired vacant possession of, or been allotted a residence; or

(f) that the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause; or

(g) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim was not *bonafide*,

the Controller shall make an order directing the tenant to put the landlord in possession of the building; and if the Controller is not so satisfied he shall make an order rejecting the application:

Provided that in any case falling under clause (a), if the Controller is satisfied that the tenant's default to pay or tender rent was not without reasonable cause, he may, notwithstanding anything contained in section 32, give the tenant a reasonable time, not exceeding thirty days, to pay or tender the rent due by him to the landlord up to the date of such payment or tender and on such payment or tender the application shall be rejected.

23. Landlord's right to obtain possession.—(1) A landlord may, subject to the provisions of section 24, apply to the Controller for an order directing the tenant to put him in possession of the building—

(a) in case it is a residential building,—

(i) if the landlord is not occupying a residential building of his own in the city, town or village concerned and he requires it for his own occupation or for the occupation of any member of his family, or

(ii) if the landlord who has more buildings than one in the city, town or village concerned is in occupation of one such building and he *bonafide* requires another building instead, for his own occupation;

(b) in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, if the landlord requires it for his own use and if he is not occupying any such building in the city, town or village concerned which is his own or to the possession of which he is entitled whether under this Act or otherwise:

Provided that a person who becomes a landlord after the commencement of the tenancy by an instrument *'inter vivos'* shall not be entitled to apply under this clause before the expiry of five years from the date on which the instrument was registered:

Provided further that where a landlord has obtained possession of a building under this section, he shall not be entitled to apply again under this section—

(i) in case he has obtained possession of a residential building for possession of another residential building of his own;

(ii) in case he has obtained possession of a non-residential building for possession of another non-residential building of his own.

(2) Where the landlord of a residential building is a religious, charitable, educational or other public institution, it may, if the building is required for the purposes of the institution, apply to the Controller, subject to the provisions of section 24, for an order

directing the tenant to put the institution in possession of the building.

(3) A landlord who is occupying only a part of a residential building, may, notwithstanding anything in sub-section (1), apply to the Controller for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for his own use or for the use of any member of his family.

Explanation:—For the purpose of this section, a landlord means a person, on account of or on behalf of or for the benefit of whom the rent of a building is received but does not include an agent, trustees, guardian or receiver.

24. Saving in case of tenancy for a fixed term.—Where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply for possession under section 23 before the expiry of such period.

25. Controller to decide right to possession.—The Controller shall, if he is satisfied that the claim of the landlord under section 23 is *bonafide*, make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not satisfied, he shall make an order rejecting the application:

Provided that in the case of an application under sub-section (3) of section 23, the Controller shall reject the application, if he is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the landlord:

Provided further that the Controller may give to a tenant a reasonable time of not less than three months and not exceeding six months, for putting the landlord in possession of the building and may extend such time so as not to exceed six months in the aggregate from the date of the order.

26. Special provision for certain classes of tenants.—No order for eviction shall be passed under section 23—

- (i) against any tenant who is engaged in any employment or class of employment notified by the Administrator as an essential service for the purpose of this clause, unless the landlord is himself engaged in any employment or class of employment which has been so notified; or
- (ii) in respect of any building which has been let for use as an educational institution and is actually being used as such, provided that the institution has been recognized by the Administrator or any authority empowered by him in this behalf.

27. Consequences of failure of landlord to occupy premises vacated under section 25.—(1) Where a landlord who has obtained possession of a building in pursuance of an order under section 25 does not himself occupy it and for the purposes specified in the order within one month of the date of obtaining possession or, having so occupied it, vacates it without reasonable cause within three years of such date, the tenant who has been evicted may apply

to the Controller for an order directing that he shall be restored to possession of the building and the Controller shall make an order accordingly notwithstanding anything contained in sections 4 to 10.

(2) Where a tenant who is entitled to apply for possession under sub-section (1) fails to do so within one month from the date on which the right to make the application accrued to him, the Authorised Officer shall have power, if the building is required for any of the purposes specified in sub-section (1) of section 6, to give intimation to the landlord that the building is so required, and thereupon the provisions of section 4 to 10 shall apply to the building:

Provided that sub-section (2) shall not apply to a building to which the provisions of section 11 apply.

28. Vexatious proceedings.—Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation, not exceeding two months rent, be paid by such landlord to the tenant.

29. Effect of dismissal of petition for ejectment.—Where an application under sections 22 or 23 for evicting a tenant has been rejected by the Controller or in appeal or revision, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same terms and conditions as before and shall not be terminable by the landlord except on one or more of the grounds mentioned in the said section 22 or section 23.

30. Recovery of possession by landlord for repairs, alterations or additions or for reconstruction.—(1) Notwithstanding anything in this Act, on an application made by a landlord, the Controller may, if he is satisfied—

(a) that the building is reasonably and *bonafide* required by the landlord for carrying out repairs, alterations or additions which cannot be carried out without the building being vacated, or

(b) that the building consists of not more than two floors and is reasonably and *bonafide* required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished,

pass an order directing the tenant to deliver possession of the building to the landlord before a specified date.

(2) No order for recovery of possession under this section shall be passed, unless the landlord gives an undertaking that the building on completion of the repairs, alterations or additions, or the new building on its completion, will be offered to the tenant who delivered possession in pursuance of an order under sub-section (1) for his reoccupation before the expiry of such period as may be specified by the Controller in this behalf.

(3) In the event of the landlord failing to make the offer in accordance with the said undertaking, the Controller shall, on an application made by the tenant within one month after the expiry of the period specified under sub-section (2), make an order directing the landlord to deliver possession of the building to the tenant.

(4) The tenant on reoccupation of the building or occupation of the new building as the case may be, shall be subject to the following conditions, namely:—

(a) that he shall pay to the landlord the fair rent in respect of the building, provided that, in respect of the residential building, the tenant concerned shall not be required to pay a rent in relation to the area of more than double the rate at which he paid the rent for his former building immediately before delivering possession under sub-section (1);

(b) that his reoccupation of the building or occupation of the new building as the case may be, shall, save as provided in condition (a) above, be on the same terms and conditions on which he occupied the building before the delivery of the possession under sub-section (1).

(5) In case the tenant to whom the building or the new building, as the case may be, is offered under sub-section (2) by the landlord does not want to occupy it, the landlord shall give notice of vacancy in writing to the Authorised Officer under sub-section (1) of section 4.

(6) Nothing in this section shall entitle a landlord who has recovered the possession of the building for repairs, alterations or additions or for reconstruction to convert a residential building into a non-residential building or a non-residential building into a residential building, unless such conversion is permitted by the Controller at the time of passing an order under sub-section (1).

31. Recovery of possession by landlord for repairs, alterations or additions or for reconstruction of building the possession of which has been taken over under section 6.—(1) Notwithstanding anything in this Act, on an application made by a landlord of a building the possession of which has been taken over under section 6, the Authorised Officer may, if he is satisfied—

(a) that the building is reasonably and *bonafide* required by the landlord for carrying out repairs, alterations or additions which cannot be carried out without the building being vacated, or

(b) that the building consists of not more than two floors and is reasonably and *bonafide* required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished,

pass an order directing the allottee to deliver possession of the building to the landlord before a specified date.

(2) No order for recovery of possession under this section shall be passed unless the landlord gives an undertaking that the building on completion of the repairs, alterations or additions or the new building on its completion will be offered to the Authorised Officers before the expiry of such period as may be specified by the Authorised Officer in this behalf.

(3) In the event of the landlord failing to make the offer in accordance with the said undertaking, the Authorised Officer may proceed as if the landlord had failed to give the notice required by sub-section (1) of section 4.

(4) Nothing in this section shall entitle the landlord who has recovered possession of the building for repairs, alterations or additions or for reconstruction to convert a residential building into a non-residential building or a non-residential building into a residential building, unless such conversion is permitted by the Authorised Officer at the time of passing an order under sub-section (1).

32. Payment or deposit of rent during pendency of proceedings for eviction.—(1) No tenant against whom a proceeding for eviction has been instituted by a landlord under this Act shall be entitled to contest the proceeding before the Controller or any appellate or revisional authority or to prefer any appeal or revision under this Act, unless he has paid to the landlord or deposited with the Controller or the appellate or revisional authority, as the case may be, all arrears of rent due in respect of the building up to the date of payment or deposit and continues to pay or deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Controller or the appellate or revisional authority.

(2) The deposit of rent under sub-section (1) shall be made within such time and in such manner as may be prescribed.

(3) Where there is any dispute as to the amount of rent to be paid or deposited under sub-section (1), the Controller or the appellate or revisional authority, as the case may be, shall, on application made either by the tenant or by the landlord, and after making such inquiry as he deems necessary, determine summarily the rent to be so paid or deposited.

(4) If any tenant fails to pay or to deposit the rent as aforesaid, the Controller or the appellate or revisional authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the landlord in possession of the building.

(5) The amount deposited under sub-section (1) may, subject to such conditions as may be prescribed, be withdrawn by the landlord on application made by him in that behalf.

CHAPTER VI

Obligation of the landlord and the tenant

33. Landlord's duty to keep building in good repair.

—(1) Every landlord shall be bound to keep the building in good and tenantable repair.

(2) If the landlord neglects or fails to make, within a reasonable time after notice in writing, any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord:

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

(3) Where any repairs without which the building is not habitable or usable except with undue inconvenience are to be made and the landlord neglects or fails to make them after notice in writing, the tenant may apply to the Rent Tribunal for permission to make such repairs himself and may

submit to the Rent Tribunal an estimate of the cost of such repairs, and, thereupon, the Rent Tribunal may, after giving the landlord an opportunity of being heard and after considering such estimate of the cost and making such inquiries as it may consider necessary, by order in writing, permit the tenant to make such repairs at such cost as may be specified in the order, and it shall, thereafter, be lawful for the tenant to make such repairs himself and to deduct the cost thereof, which shall in no case exceed the amount so specified, from the rent or otherwise recover it from the landlord.

Provided that the amount so deducted or recoverable in any year shall not exceed one-half of the rent payable by the tenant for that year:

Provided further that if any repairs not covered by the said amount are necessary in the opinion of the Rent Tribunal and the tenant agrees to bear the excess cost himself the Rent Tribunal may permit the tenant to make such repairs.

34. Execution of lease deed of a building.—Notwithstanding anything contained in clause (c) of sub-section (1) of section 3 or any other law for the time being in force a lease deed shall be executed between the landlord and the tenant whenever a building is let out after this Act comes into force.

35. Tenant's right to essential services.—(1) No landlord either himself or through any person purporting to act on his behalf shall, without just and sufficient cause, cut off or withhold any essential supply or service of the building let to him.

(2) If a landlord contravenes the provisions of sub-section (1), the tenant may make an application to the Controller complaining of such contravention.

(3) If the Controller is satisfied that the essential supply or service was cut off or withheld by the landlord with a view to compel the tenant to vacate the building or to pay an enhanced rent, the Controller may pass an order directing the landlord to restore the amenities immediately, pending the inquiry referred to in sub-section (4).

Explanation:—An interim order may be passed under this sub-section without giving notice to the landlord.

(4) If the Controller, on inquiry, finds that the essential supply or service enjoyed by the tenant in respect of the building was cut off or withheld by the landlord without just and sufficient cause, he shall make an order directing the landlord to restore such supply or service.

(5) The Controller may, in his discretion, direct that compensation not exceeding fifty rupees—

(a) be paid to the landlord by the tenant, if the application under sub-section (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the landlord, if the landlord had cut off or withheld the supply or service without just and sufficient cause.

Explanation I:—In this section, «essential supply or service» includes supply of water, electricity, lights in passages and on staircases, conservancy and sanitary services.

Explanation II:—For the purposes of this section, withholding any essential supply or service shall include acts or omissions attributable to the landlord on account of which the essential supply or service is cut off by a local authority or any other competent authority.

CHAPTER VII

Hotels and lodging houses

36. Application of this Chapter.—The provisions of this Chapter shall come into force in any local area only with effect from such date as the Administrator may, by notification, in the Official Gazette appoint:

Provided that if the Administrator is of the opinion that it would not be desirable in the public interest to make the provisions of this Chapter applicable to any class of hotels or lodging houses, he may, by notification in the Official Gazette, exempt such class of hotels or lodging houses from the operation of this Chapter.

37. Determination of fair rate.—(1) Where the Rent Tribunal, on a written complaint or otherwise, has reason to believe that the charges made for boarding or lodging or any other service provided in any hotel or lodging house are excessive, it may fix a fair rate to be charged for boarding, lodging or other services provided in the hotel or lodging house and in fixing such fair rate, specify separately the rate for lodging, boarding and other services.

(2) In determining the fair rate under sub-section (1), the Rent Tribunal shall have regard to the nature of the boarding, lodging and other services furnished, the prevailing rates of charges for the same or similar services, the cost of living and the scale of charges for boarding, lodging and other services as on the 1st day of January, 1965.

38. Revision of fair rate.—On a written application from the manager of a hotel or the owner of a lodging house or otherwise, the Rent Tribunal may, from time to time, revise the fair rate to be charged for boarding, lodging or other service in a hotel or lodging house, and fix such rate as it may deem fit having regard to any general rise or fall in the cost of living which may have occurred after the fixing of the fair rate.

39. No charges payable in excess of fair rate.—When the Rent Tribunal has determined the fair rate of charges in respect of a hotel or lodging house—

(a) the manager of the hotel or the owner of the lodging house, as the case may be, shall not charge any amount in excess of the fair rate and shall not, except with the previous written permission of the Rent Tribunal, withdraw from the lodger any concession or service allowed at the time, when the Rent Tribunal determined the fair rate;

(b) any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate;

(c) any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within

a period of six months from the date of the payment from the manager of the hotel or the owner of the lodging house or his legal representatives and may, without prejudice to any other mode of recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

40. Recovery of possession by manager of a hotel or the owner of a lodging house. — Notwithstanding anything contained in this Act, the manager of a hotel or the owner of a lodging house shall be entitled to recover possession of the accommodation provided by him to a lodger on obtaining a certificate from the Controller certifying —

(a) that the lodger has been guilty of conduct which is a nuisance or which causes annoyance to any adjoining or neighbouring lodger;

Explanation: — For the purposes of Central Act 104 of 1956 this clause, «nuisance» shall be deemed to include any act which constitutes an offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956; or

(b) that the accommodation is reasonably and *bonafide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation of for the occupation of any person for whose benefit the accommodation is held, or any other cause which in the opinion of the Controller is sufficient; or

(c) that the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof; or

(d) that the lodger has done any act which is inconsistent with the purpose for which the accommodation was given to him or which is likely to affect adversely or substantially the owner's interest therein; or

(e) that the lodger has failed to pay the rent due from him.

CHAPTER VIII

Authorities, procedure and appeals

41. Authorities. — (1) The Administrator may, by notification in the Official Gazette, constitute for any local area an Appellate Board and a Rent Tribunal consisting of one or more persons as may be prescribed for the purposes of this Act:

Provided that the Administrator may, by notification in the Official Gazette, entrust the powers, functions or duties of an Appellate Board to the Administrative Tribunal.

(2) (a) The Administrator may also, by notification in the Official Gazette, appoint an Authorised Officer, a Controller and as many Additional Controllers as he thinks fit, for any local area.

(b) An additional Controller shall exercise the same powers and discharge the same duties as a Controller.

(3) The Administrator may, by notification in the Official Gazette, define the areas within which an Authorised Officer, or a Controller shall perform his functions.

42. Transfer of proceedings. — (1) The Controller may, after giving due notice to the parties and after

giving them a reasonable opportunity of being heard —

(a) transfer any proceeding pending before him for disposal to any Additional Controller; or

(b) withdraw any proceedings pending before any Additional Controller and dispose it of himself or transfer the proceeding for disposal to any other Additional Controller.

(2) The Administrative Tribunal may after giving due notice to the parties and after giving them a reasonable opportunity of being heard, transfer any proceeding from a Controller to another Controller.

(3) The Appellate Board may transfer any proceeding from a Rent Tribunal to another Rent Tribunal.

43. Powers of the Controller, the Rent Tribunal and the Appellate Board. — The Controller, the Rent Tribunal and the Appellate Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit or appeal, in respect of the following matters, namely: —

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) issuing commissions for the examination of witnesses;

(d) any other matter which may be prescribed; and any proceeding before the Controller, the Rent Tribunal and the Appellate Board shall be deemed to be a judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code, and the Controller, the Rent Tribunal and the Appellate Board shall be deemed to be civil courts within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

44. Procedure. — (1) Subject to the provisions of this Act, the procedure to be followed by the Controller, the Rent Tribunal, the Appellate Board, or the Administrative Tribunal in all inquiries, appeals and proceedings under this Act shall be such as may be prescribed.

(2) Every decision made or order passed under this Act shall be recorded in the form of an order which shall state the reasons therefor.

45. Appeal. — (1) From every order, other than an interim order, passed by the Rent Tribunal, an appeal shall lie to the Appellate Board.

(2) From every order, other than an interim order, passed by the Authorised Officer under section 31, or by the Controller, an appeal shall lie to the Administrative Tribunal.

(3) An appeal under this section shall be preferred within thirty days from the date of the order appealed against:

Provided that the Appellate Board or, as the case may be, the Administrative Tribunal, may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant

was prevented by sufficient cause from filing the appeal in time.

46. Revision. — (1) The Administrative Tribunal may, in exceptional circumstances, on the application of any party, call for and examine the records relating to any order passed under this Act by the Authorised Officer, the Controller, the Rent Tribunal, or the Appellate Board for the purpose of satisfying itself as to the correctness, legality, or propriety of such order and may pass such order thereon as it thinks fit:

Provided that no such record shall be called for after the expiry of ninety days from the date of the order.

(2) The costs of such proceedings shall be in the discretion of the Administrative Tribunal.

47. Powers of appellate and revisional authorities. — Any appellate or revisional authority under this Act may confirm, modify or rescind the order in appeal or revision or its execution or may pass such other order as is legal and is in accordance with the provisions of this Act.

Provided that no order shall be varied in revision unless an opportunity has been given to the interested parties to appear and be heard:

Provided further that every order passed by the Authorised Officer, the Controller or the Rent Tribunal shall be final, unless varied in appeal or revision and every order passed in appeal or revision shall be final.

48. Costs. — Subject to such conditions and limitations, if any, as may be prescribed, the costs of and incident to all proceedings under this Act before any original, appellate or revisional authority under this Act shall be in the discretion of the said authority, which shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

49. Recovery of compensation. — Any compensation awarded or fine imposed by any authority under this Act shall be paid by the person concerned within such time as may be allowed, and in default of such payment the amount shall be recoverable as an arrear of land revenue, or in such other manner as may be prescribed.

50. Execution of orders. — An order made under this Act by any original, appellate or revisional authority directing the taking over of the possession of any building or the eviction of any person in occupation of any building shall be executable by that authority as a decree of a civil court and for this purpose that authority shall have all the powers of a civil court.

CHAPTER IX

Miscellaneous

51. Orders under this Act to be binding on sub-tenants. — Any order for the eviction of a tenant passed under this Act shall be binding on all sub-tenants under such tenant, whether they were parties to the proceedings or not and whether they became sub-tenants before or after the date of the

application for eviction, provided that such order was not obtained by fraud or collusion:

Provided that notwithstanding anything to the contrary contained in this Act, in case of a sub-tenancy of a building created with the written consent of the landlord, the sub-tenant shall be a necessary party to an application by the landlord for eviction of the tenant from the building.

52. Proceedings by or against legal representatives.

(1) Any application made, appeal preferred, or proceeding taken, under this Act by or against any person, may, in the event of his death, be continued by or against his legal representatives.

(2) Where any application, appeal or other proceedings could have been made, preferred or taken, under this Act, by or against any person, such application, appeal or other proceedings may, in the event of his death, be made, preferred or taken by or against his legal representatives.

53. Power of inspection. — The Authorised Officer and any original, appellate or revisional authority under this Act or any person authorised in writing by him or by such authority in this behalf, may enter and inspect any building for the purposes of any inquiry or proceeding under this Act.

54. Penalties. — (1) If any person contravenes the provisions of section 15 or section 16, he shall be punishable with a simple imprisonment for a term which may extend to two years and a fine which may extend to a sum double the extra amount or the like amount claimed, received or stipulated in addition to or in excess of the fair rent or the agreed rent.

(2) Any person who contravenes or attempts to contravene or abets the contravention of any of the provisions other than section 15 or section 16 of this Act, or any rule made thereunder shall be punishable with fine which may extend to five thousand rupees.

(3) Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every Director, Manager, Secretary, Agent or other Officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

55. Protection for acts done under this Act. — (1) No suit, prosecution or other legal proceeding shall lie in any court against any officer or servant of the Government or any person acting under his direction or aiding or assisting him, for anything which is in good faith done or intended to be done in pursuance of or under this Act.

(2) No suit or other legal proceeding shall lie against the Government for, or on account of, or in respect of, any act, matter or thing whatsoever, purporting to have been done in pursuance of or under this Act.

56. Jurisdiction of courts barred. — Save as provided in this Act, no court shall have jurisdiction to settle, determine or deal with any question which is by or under this Act required to be settled, determined or dealt with by the Controller, the Rent Tribunal,

the Appellate Board, the Administrative Tribunal, or the Administrator, and no order passed by any such authorities under this Act shall be called in question in any court.

57. Power to remove difficulty. — If any difficulty arises in giving effect to the provisions of this Act, the Administrator may, by order, do anything not inconsistent with the provisions of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

58. Power to make rules. — (1) The Administrator may, by notification in the Official Gazette and subject to the conditions of previous publication, make rules to carry out the purposes of this Act:

(2) Without prejudice to the generality of the foregoing power such rules may provide for: —

(a) the procedure to be followed, and the powers that may be exercised by the Controller, Rent Tribunal, Appellate Board, and Administrative Tribunal in the performance of their functions under this Act;

(b) the manner in which notices and orders under this Act shall be given or served;

(c) the setting aside of *ex parte* orders passed under this Act;

(d) the application for bringing on record legal representatives of deceased persons who were parties to proceedings under this Act and the time within which such application shall be preferred;

(e) the procedure to be followed in taking possession of building and in disposing of the articles found therein at the time of taking possession;

(f) the fee leviable in respect of applications and appeals under this Act;

(g) any other matters which has to be, or may be, prescribed.

(3) In making a rule under this section the Administrator may provide that a person who contravenes any of the provisions thereof shall be punishable with fine which may extend to one thousand rupees.

(4) Every rule made under this Act shall, as soon as may be after it is made, be laid on the table of the Legislative Assembly of Goa, Daman and Diu and if before the expiry of the session in which it is so laid or the session immediately following, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without preju-

dice to the validity of anything previously done under that rule.

59. Repeals and savings. — (1) As from the date on which this Act is brought into force in any local area, the provisions of Decree No. 43525, dated the 7th March, 1961, and Legislative Diploma No. 1409, dated the 14th February, 1952 and the corresponding provisions of any other law for the time being in force shall stand repealed in that area.

(2) Notwithstanding the repeal of the laws by sub-section (1), all suits and other proceedings under a repealed law pending at the commencement of this Act before any court or authority shall be continued and disposed of in accordance with the provisions of the repealed law as if that law had continued in force and this Act had not been passed:

Provided that in any such suit or proceeding for the fixation of fair rent or for the eviction of a tenant from any building, the court or other authority shall have regard to the provisions of this Act:

Provided further that the provisions for appeal under the repealed law shall continue in force in respect of suits and proceedings disposed of thereunder.

Secretariat,

Panaji,

11th March, 1969.

R. L. SEGEL

Secretary to the Government
of Goa, Daman and Diu

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Labour and Information Department

Mormugao Port Trust

Notification

MPT/IGA(E. 682-I)/69

As required under Section 124(1) of the Major Port Trusts Act, 1963, it is hereby notified that the Central Government vide Ministry of Transport and Shipping's letter No. 7-PE(4)/69 dated the 19th February, 1969, have accorded approval to the amendment to the Mormugao Port Employees (Pension & Gratuity) Regulations, 1966 published in the Government Gazettes Nos. 37 and 38, Series I, dated the 12th and 20th December, 1968 respectively.

The amendment will be effective from the date of publication of this notification.

By order,

Shivakumar Dhindaw

Secretary

Mormugao, 27th February, 1969.